

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

FEDERATION OF AMERICANS FOR  
CONSUMER CHOICE, INC.; JAMES  
HOLLOWAY; JAMES JOHNSON; TX  
TITAN GROUP, LLC; PROVISION  
BROKERAGE, LLC; and V. ERIC  
COUCH,

*Plaintiffs,*

V.

UNITED STATES DEPARTMENT  
OF LABOR and JULIE SU, in her  
official capacity as ACTING  
SECRETARY OF LABOR,

*Defendants.*

[illegible]

C.A. No. 6:24-cv-00163

## JOINT STATUS REPORT

Plaintiffs Federation of Americans for Consumer Choice, Inc., James Holloway, James Johnson, TX Titan Group, LLC, Provision Brokerage, LLC, and V. Eric Couch (collectively, “Plaintiffs”), and Defendants United States Department of Labor and Julie Su, in her Official Capacity as Acting Secretary of Labor (together, “Defendants”), hereby file this Joint Status Report and submit the following:

On September 3, 2024, the parties submitted a Corrected Joint Status Report [Doc. 37] requesting the Court permit submission of a status report on September 27, 2024, after Defendants had an opportunity to decide whether to seek an interlocutory appeal of the Court's Memorandum Opinion and Order Granting Plaintiffs' Motion for a Stay of the Effective Date of the Retirement Security Rule. [Doc. 32.] The Court granted the parties'

requests. [Doc. 38.]

Defendants filed a Notice of Appeal [Doc. 39] on September 20, 2024, appealing the Memorandum Opinion and Order to the United States Court of Appeals for the Fifth Circuit. While a notice of appeal from an interlocutory order does not completely divest a district court of jurisdiction over the case, *Alice L. v. Dusek*, 492 F.3d 563, 564-65 (5th Cir.2007), the parties agree that in this case it would conserve the resources of the parties and the Court to stay this matter during the pendency of the interlocutory appeal to the Fifth Circuit. Any final judgment on the merits of this action will necessarily involve similar issues to those addressed in the Memorandum Opinion and Order, and the Fifth Circuit's ruling on the interlocutory appeal will be important to the Court's final resolution and disposition of this case.

The parties therefore jointly request that the Court stay this matter pending the disposition of the interlocutory appeal to the Fifth Circuit. A similar request to stay further proceedings pending the interlocutory appeal to the Fifth Circuit has been requested by the parties in the Northern District of Texas action, in which the effective date of the Retirement Security Rule was also stayed by the court.

Dated: September 27, 2024

Respectfully submitted,

/s/ Don Colleluori

Andrew G. Jubinsky  
Texas Bar No. 11043000  
[andy.jubinsky@figdav.com](mailto:andy.jubinsky@figdav.com)  
Parker D. Young  
*Attorney-In-Charge*  
Texas Bar No. 22204050  
[parker.young@figdav.com](mailto:parker.young@figdav.com)  
Don Colleluori  
Texas Bar No. 04581950  
[don.colleluori@figdav.com](mailto:don.colleluori@figdav.com)  
Amber D. Reece  
Texas Bar No. 24079892  
[amber.reece@figdav.com](mailto:amber.reece@figdav.com)

FIGARI + DAVENPORT, LLP  
901 Main Street, Suite 3400  
Dallas, Texas 75202  
T: 214-939-2000 / F: 214-939-2090

*Attorneys for Plaintiffs*

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney  
General

JULIE STRAUS HARRIS  
Assistant Branch Director

/s/ Galen N. Thorp

GALEN N. THORP  
Senior Trial Counsel  
ALEXANDER N. ELY  
GARRETT F. MANNCHEN  
Trial Attorneys  
United States Department of Justice  
Civil Division, Federal Programs Branch  
1100 L Street NW  
Washington, DC 20005  
T: 202-993-5177 / F: 202-616-8470  
[alexander.n.ely@usdoj.gov](mailto:alexander.n.ely@usdoj.gov)

*Counsel for Defendants*